

**BEFORE THE  
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION**

**In the Matter of:**

**MOVING VAN LINES, INC.,**

**Respondent.**

**Docket No. FMCSA-2009-0105<sup>1</sup>  
(Southern Service Center)**

**ORDER APPOINTING ADMINISTRATIVE LAW JUDGE**

**1. Background**

On January 6, 2009, Claimant, the Field Administrator for the Southern Service Center, Federal Motor Carrier Safety Administration (FMCSA), issued a Notice of Claim to Respondent, Moving Van Lines, Inc., proposing a civil penalty of \$281,000 for 29 alleged violations of the Federal Motor Carrier Commercial Regulations (FMCCRs). Specifically, the Notice of Claim, which was based upon a December 3, 2008, safety compliance review, charged Respondent with: (a) one violation of 49 CFR 375.403(a)(6), with a proposed civil penalty of \$1,100, for collecting more than the original amount of the binding estimate; and (b) 28 violations of 49 CFR 375.403(a)(10)/14915,<sup>2</sup> with a proposed civil penalty of \$10,000 per count, for failing to relinquish possession of household goods shipment after the shipper offered to pay 100 percent of the binding estimate.<sup>3</sup> Each count refers to Respondent's alleged failure to relinquish possession of the same shipment on 28 successive days.

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<sup>1</sup> The prior case number of this matter was FL-2009-0041-US0617.

<sup>2</sup> "14915" is part of the United States Code, not the Code of Federal Regulations. Therefore, the citation should have been 49 CFR 375.403(a)(10)/49 U.S.C. § 14915.


<sup>3</sup> See Government Exhibit A to Field Administrator's Consent to Respondent's Request for Formal Hearing.

On February 6, 2009, Respondent replied to the Notice of Claim,<sup>4</sup> setting forth its defenses and requesting a formal hearing.<sup>5</sup> Respondent contended that the FMCSA investigator failed to recognize or acknowledge that revised binding written estimates were filled out and signed by both shippers and the carrier. Respondent also alleged that the shippers never paid, or offered to pay, the binding estimate. On April 7, 2009, Claimant consented to Respondent's request for a formal hearing. Accordingly, this matter is being forwarded to the United States Department of Transportation's Office of Hearings.

## **2. Appointment of Administrative Law Judge**

In accordance with 49 CFR 386.54, an administrative law judge is hereby appointed, to be designated by the Chief Administrative Law Judge of the Department of Transportation, to preside over this matter and render a decision on all issues, including the civil penalty, if any, to be imposed. The proceeding shall be governed by subparts D and E of 49 CFR Part 386 of the revised Rules of Practice and all orders issued by the administrative law judge.

*It Is So Ordered.*

  
Rose A. McMurray  
Assistant Administrator  
Federal Motor Carrier Safety Administration

3.12.10  
Date

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<sup>4</sup> The Reply was dated February 6, 2008. Since the Notice of Claim was not served until 2009, the date on the Reply is clearly a typographical error.

<sup>5</sup> See Exhibit B to Field Administrator's Consent to Respondent's Request for Formal Hearing.

**CERTIFICATE OF SERVICE**

This is to certify that on this 12 day of March, 2010, the undersigned mailed or delivered, as specified, the designated number of copies of the foregoing document to the persons listed below.

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The Honorable Ronnie A. Yoder  
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